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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/416,192 10/11/99 STARK

J 00418

EXAMINER

QM32/0327

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RICHMAN, B
ART UNIT

PAPER NUMBER

3764
DATE MAILED:

03/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.
09/416,192

Application No.

Stark

Examiner
Glenn Richman

Group Art Unit
3764



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-24 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3764

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1, drawn to an orthopedic treatment apparatus, classified in class 482, subclass 9.
 - II. Claims 2-10, drawn to an orthopedic treatment method, classified in class 434, subclass 247.
 - III. Claims 11-17, drawn to a communication system, classified in class , subclass .
 - IV. Claims 18-24, drawn to a process of treating an orthopedic injury, classified in class , subclass .

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process.

3. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

4. Because these inventions are distinct for the reasons given above and the search required for Group I and II is not required for Group III and IV, restriction for examination purposes as indicated is proper.

Art Unit: 3764


5. A telephone call was made to Robert Elwell on 3/26/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is (703)308-3170. The examiner can normally be reached Tuesday through Thursday from 7:30 AM to 6:00 PM Eastern time. The facsimile number for Art Unit 3764 is (703)308-0758. The facsimile number for submitting formal papers to Technology Center 3700 is (703)305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 3700 receptionist whose telephone number is (703)308-0858 or to Customer Service at (703)306-6789.

gr
March 26, 2001


Glenn Richman
Primary Examiner
AU 3764